

AMENDED IN SENATE MAY 13, 1996

AMENDED IN SENATE APRIL 8, 1996

SENATE BILL

No. 2164

Introduced by Senator Hayden

February 23, 1996

An act to amend Section ~~11054~~ 11056 of, and to add Section 11371.5 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 2164, as amended, Hayden. Controlled substances: flunitrazepam.

(1) Existing law categorizes controlled substances into 5 schedules and places the greatest restrictions on those contained in Schedule I.

This bill would include in Schedule ~~I~~ III the depressant flunitrazepam. This bill would impose a state-mandated local program upon local governments by creating new crimes.

(2) *Proposition 8, an initiative statute approved by the voters at the June 8, 1982, primary election, prescribes a 5-year prison sentence enhancement for any person convicted of a serious felony, as defined, who has been previously convicted of a serious felony. This initiative statute provides that any amendment of its provisions by the Legislature shall require a 2/3 vote of the membership of each house. Chapter 12 of the Statutes of 1994 amended the initiative statute and prescribes enhanced prison sentences for any person convicted of a*

felony who has one or more prior felony convictions, as defined.

This bill would provide that a felony conviction for a controlled substance offense with respect to flunitrazepam shall not constitute a current felony conviction for purposes of the above sentence enhancement provisions. Because this provision would constitute an amendment of an initiative statute, the bill would require a $\frac{2}{3}$ vote.

(3) Proposition 184, an initiative statute approved by the voters at the November 8, 1994, general election, added Section 1170.12 to the Penal Code. The initiative statute provides that any amendment of its provisions by the Legislature shall require a $\frac{2}{3}$ vote of the membership of each house. Section 1170.12 of the Penal Code also prescribes enhanced sentences for any person convicted of a felony who has one or more prior felony convictions, as defined.

This bill would provide that a felony conviction for a controlled substance offense with respect to flunitrazepam shall not constitute a present felony conviction for purposes of the above sentence enhancement provisions. Because this provision would also constitute an amendment of an initiative statute, the bill would require a $\frac{2}{3}$ vote.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 11054 of the Health and Safety~~
- 2 *SECTION 1. Section 11056 of the Health and Safety*
- 3 *Code is amended to read:*
- 4 11056. (a) The controlled substances listed in this
- 5 section are included in Schedule III.
- 6 (b) Stimulants. Unless specifically excepted or unless
- 7 listed in another schedule, any material, compound,

1 mixture, or preparation which contains any quantity of
2 the following substances having a stimulant effect on the
3 central nervous system, including its salts, isomers
4 (whether optical, position, or geometric), and salts of
5 those isomers whenever the existence of those salts,
6 isomers, and salts of isomers is possible within the specific
7 chemical designation:

8 (1) Those compounds, mixtures, or preparations in
9 dosage unit form containing any stimulant substances
10 listed in Schedule II which compounds, mixtures, or
11 preparations were listed on August 25, 1971, as excepted
12 compounds under Section 1308.32 of Title 21 of the Code
13 of Federal Regulations, and any other drug of the
14 quantitative composition shown in that list for those drugs
15 or which is the same except that it contains a lesser
16 quantity of controlled substances.

17 (2) Benzphetamine.

18 (3) Chlorphentermine.

19 (4) Clortermine.

20 (5) Mazindol.

21 (6) Phendimetrazine.

22 (c) Depressants. Unless specifically excepted or unless
23 listed in another schedule, any material, compound,
24 mixture, or preparation which contains any quantity of
25 the following substances having a depressant effect on the
26 central nervous system:

27 (1) Any compound, mixture, or preparation
28 containing any of the following:

29 (A) Amobarbital

30 (B) Secobarbital

31 (C) Pentobarbital

32 or any salt thereof and one or more other active medicinal
33 ingredients which are not listed in any schedule.

34 (2) Any suppository dosage form containing any of the
35 following:

36 (A) Amobarbital

37 (B) Secobarbital

38 (C) Pentobarbital

39 or any salt of any of these drugs and approved by the

1 federal Food and Drug Administration for marketing
2 only as a suppository.

3 (3) Any substance which contains any quantity of a
4 derivative of barbituric acid or any salt thereof.

5 (4) Chlorhexadol.

6 (5) *Flunitrazepam*.

7 (6) Lysergic acid.

8 ~~(6)~~

9 (7) Lysergic acid amide.

10 ~~(7)~~

11 (8) Methypylon.

12 ~~(8)~~

13 (9) Sulfondiethylmethane.

14 ~~(9)~~

15 (10) Sulfonethylmethane.

16 ~~(10)~~

17 (11) Sulfonmethane.

18 ~~(11)~~

19 (d) Nalorphine.

20 (e) Narcotic drugs. Unless specifically excepted or
21 unless listed in another schedule, any material,
22 compound, mixture, or preparation containing any of the
23 following narcotic drugs, or their salts calculated as the
24 free anhydrous base or alkaloid, in limited quantities as
25 set forth below:

26 (1) Not more than 1.8 grams of codeine per 100
27 milliliters or not more than 90 milligrams per dosage unit,
28 with an equal or greater quantity of an isoquinoline
29 alkaloid of opium.

30 (2) Not more than 1.8 grams of codeine per 100
31 milliliters or not more than 90 milligrams per dosage unit,
32 with one or more active, nonnarcotic ingredients in
33 recognized therapeutic amounts.

34 (3) Not more than 300 milligrams of
35 dihydrocodeinone per 100 milliliters or not more than 15
36 milligrams per dosage unit, with a fourfold or greater
37 quantity of an isoquinoline alkaloid of opium.

38 (4) Not more than 300 milligrams of
39 dihydrocodeinone per 100 milliliters or not more than 15
40 milligrams per dosage unit, with one or more active



1 nonnarcotic ingredients in recognized therapeutic
2 amounts. Additionally, oral liquid preparations of
3 dihydrocodeinone containing the above specified
4 amounts may not contain as its nonnarcotic ingredients
5 two or more antihistamines in combination with each
6 other.

7 (5) Not more than 1.8 grams of dihydrocodeine per 100
8 milliliters or not more than 90 milligrams per dosage unit,
9 with one or more active nonnarcotic ingredients in
10 recognized therapeutic amounts.

11 (6) Not more than 300 milligrams of ethylmorphine
12 per 100 milliliters or not more than 15 milligrams per
13 dosage unit, with one or more active, nonnarcotic
14 ingredients in recognized therapeutic amounts.

15 (7) Not more than 500 milligrams of opium per 100
16 milliliters or per 100 grams or not more than 25 milligrams
17 per dosage unit, with one or more active, nonnarcotic
18 ingredients in recognized therapeutic amounts.

19 (8) Not more than 50 milligrams of morphine per 100
20 milliliters or per 100 grams, with one or more active,
21 nonnarcotic ingredients in recognized therapeutic
22 amounts.

23 (f) Anabolic steroids and chorionic gonadotropin. Any
24 material, compound, mixture, or preparation containing
25 chorionic gonadotropin or an anabolic steroid (excluding
26 anabolic steroid products listed in the “Table of Exempt
27 Anabolic Steroid Products” (Section 1308.34 of Title 21 of
28 the Code of Federal Regulations), as exempt from the
29 federal Controlled Substances Act (Section 801 and
30 following of Title 21 of the United States Code)),
31 including, but not limited to, the following:

- 32 (1) Androisoxazole.
- 33 (2) Androstenediol.
- 34 (3) Bolandiol.
- 35 (4) Bolasterone.
- 36 (5) Boldenone.
- 37 (6) Chlormethandienone.
- 38 (7) Clostebol.
- 39 (8) Dihydromesterone.
- 40 (9) Ethylestrenol.

- 1 (10) Fluoxymesterone.
- 2 (11) Formylidenolone.
- 3 (12) 4-Hydroxy-19-nortestosterone.
- 4 (13) Mesterolone.
- 5 (14) Methandriol.
- 6 (15) Methandrostenolone.
- 7 (16) Methenolone.
- 8 (17) 17-Methyltestosterone.
- 9 (18) Methyltrienolone.
- 10 (19) Nandrolone.
- 11 (20) Norbolethone.
- 12 (21) Norethandrolone.
- 13 (22) Normethandrolone.
- 14 (23) Oxandrolone.
- 15 (24) Oxymestrone.
- 16 (25) Oxymetholone.
- 17 (26) Quinbolone.
- 18 (27) Stanolone.
- 19 (28) Stanozolol.
- 20 (29) Stenbolone.
- 21 (30) Testosterone.
- 22 (31) Trenbolone.
- 23 (32) Chorionic Gonadotropin (HGC).
- 24 (g) Ketamine. Any material, compound, mixture, or
- 25 preparation containing ketamine.
- 26 *SEC. 2. Section 11371 is added to the Health and*
- 27 *Safety Code, to read:*
- 28 *11371.5. Any felony conviction for a violation of this*
- 29 *chapter with respect to flunitrazepam shall not constitute*
- 30 *a current felony conviction for purposes of subdivisions*
- 31 *(b) to (i), inclusive, of Section 667 or Section 1170.12 of*
- 32 *the Penal Code.*
- 33 ~~Code is amended to read:~~
- 34 ~~11054. (a) The controlled substances listed in this~~
- 35 ~~section are included in Schedule I.~~
- 36 ~~(b) Opiates. Unless specifically excepted or unless~~
- 37 ~~listed in another schedule, any of the following opiates,~~
- 38 ~~including their isomers, esters, ethers, salts, and salts of~~
- 39 ~~isomers, esters, and ethers whenever the existence of~~

- 1 ~~those isomers, esters, ethers, and salts is possible within~~
2 ~~the specific chemical designation:~~
- 3 ~~(1) Acetylmethadol.~~
 - 4 ~~(2) Allylprodine.~~
 - 5 ~~(3) Alphacetylmethadol~~ ~~_____~~ ~~(except~~
6 ~~levoalphacetylmethadol, also known as levo-alpha-~~
7 ~~acetylmethadol, levomethadyl acetate, or LAAM).~~
 - 8 ~~(4) Alphameprodine.~~
 - 9 ~~(5) Alphamethadol.~~
 - 10 ~~(6) Benzethidine.~~
 - 11 ~~(7) Betacetylmethadol.~~
 - 12 ~~(8) Betameprodine.~~
 - 13 ~~(9) Betamethadol.~~
 - 14 ~~(10) Betaprodine.~~
 - 15 ~~(11) Clonitazene.~~
 - 16 ~~(12) Dextromoramide.~~
 - 17 ~~(13) Diampromide.~~
 - 18 ~~(14) Diethylthiambutene.~~
 - 19 ~~(15) Difenoxin.~~
 - 20 ~~(16) Dimenoxadol.~~
 - 21 ~~(17) Dimepheptanol.~~
 - 22 ~~(18) Dimethylthiambutene.~~
 - 23 ~~(19) Dioxaphetyl butyrate.~~
 - 24 ~~(20) Dipipanone.~~
 - 25 ~~(21) Ethylmethylthiambutene.~~
 - 26 ~~(22) Etonitazene.~~
 - 27 ~~(23) Etoxidine.~~
 - 28 ~~(24) Furethidine.~~
 - 29 ~~(25) Hydroxypethidine.~~
 - 30 ~~(26) Ketobemidone.~~
 - 31 ~~(27) Levomoramide.~~
 - 32 ~~(28) Levophenacymorphan.~~
 - 33 ~~(29) Morpheridine.~~
 - 34 ~~(30) Noracymethadol.~~
 - 35 ~~(31) Norlevorphanol.~~
 - 36 ~~(32) Normethadone.~~
 - 37 ~~(33) Norpipanone.~~
 - 38 ~~(34) Phenadoxone.~~
 - 39 ~~(35) Phenampromide.~~
 - 40 ~~(36) Phenomorphan.~~



- 1 ~~(37) Phenoperidine.~~
- 2 ~~(38) Piritramide.~~
- 3 ~~(39) Proheptazine.~~
- 4 ~~(40) Properidine.~~
- 5 ~~(41) Propiram.~~
- 6 ~~(42) Racemoramide.~~
- 7 ~~(43) Tilidine.~~
- 8 ~~(44) Trimeperidine.~~
- 9 ~~(45) Any substance which contains any quantity of~~
- 10 ~~acetylfentanyl (N-[1-phenethyl-4-piperidiny]]~~
- 11 ~~acetanilide) or a derivative thereof.~~
- 12 ~~(46) Any substance which contains any quantity of the~~
- 13 ~~thiophene analog of acetylfentanyl~~
- 14 ~~(N-[1-[2-(2-thienyl)ethyl]-4-piperidiny]] acetanilide) or a~~
- 15 ~~derivative thereof.~~
- 16 ~~(47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine~~
- 17 ~~(MPPP).~~
- 18 ~~(48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine~~
- 19 ~~(PEPAP).~~
- 20 ~~(c) Opium derivatives. Unless specifically excepted or~~
- 21 ~~unless listed in another schedule, any of the following~~
- 22 ~~opium derivatives, its salts, isomers, and salts of isomers~~
- 23 ~~whenever the existence of those salts, isomers, and salts~~
- 24 ~~of isomers is possible within the specific chemical~~
- 25 ~~designation:~~
- 26 ~~(1) Acetorphine.~~
- 27 ~~(2) Acetyldihydrocodeine.~~
- 28 ~~(3) Benzylmorphine.~~
- 29 ~~(4) Codeine methylbromide.~~
- 30 ~~(5) Codeine-N-Oxide.~~
- 31 ~~(6) Cyprenorphine.~~
- 32 ~~(7) Desomorphine.~~
- 33 ~~(8) Dihydromorphine.~~
- 34 ~~(9) Drotebanol.~~
- 35 ~~(10) Etorphine (except hydrochloride salt).~~
- 36 ~~(11) Heroin.~~
- 37 ~~(12) Hydromorphenol.~~
- 38 ~~(13) Methyldesorphine.~~
- 39 ~~(14) Methyldihydromorphine.~~
- 40 ~~(15) Morphine methylbromide.~~

1 ~~(16) Morphine methylsulfonate.~~
 2 ~~(17) Morphine N-Oxide.~~
 3 ~~(18) Myrophine.~~
 4 ~~(19) Nicocodeine.~~
 5 ~~(20) Nicomorphine.~~
 6 ~~(21) Normorphine.~~
 7 ~~(22) Pholeodine.~~
 8 ~~(23) Thebacon.~~
 9 ~~(d) Hallucinogenic substances. Unless specifically~~
 10 ~~excepted or unless listed in another schedule, any~~
 11 ~~material, compound, mixture, or preparation, which~~
 12 ~~contains any quantity of the following hallucinogenic~~
 13 ~~substances, or which contains any of its salts, isomers, and~~
 14 ~~salts of isomers whenever the existence of those salts,~~
 15 ~~isomers, and salts of isomers is possible within the specific~~
 16 ~~chemical designation (for purposes of this subdivision~~
 17 ~~only, the term “isomer” includes the optical, position, and~~
 18 ~~geometric isomers):~~
 19 ~~(1) 4-bromo-2,5-dimethoxy-amphetamine—Some~~
 20 ~~trade or other names:~~
 21 ~~4-bromo-2,5-dimethoxy-alpha-methylphenethylamine;~~
 22 ~~4-bromo-2,5-DMA.~~
 23 ~~(2) 2,5-dimethoxyamphetamine—Some trade or other~~
 24 ~~names: 2,5-dimethoxy-alpha-methylphenethylamine;~~
 25 ~~2,5-DMA.~~
 26 ~~(3) 4-methoxyamphetamine—Some trade or other~~
 27 ~~names: 4-methoxy-alpha-methylphenethylamine;~~
 28 ~~paramethoxyamphetamine, PMA.~~
 29 ~~(4) 5-methoxy-3,4-methylenedioxy-amphetamine.~~
 30 ~~(5) 4-methyl-2,5-dimethoxy-amphetamine—Some~~
 31 ~~trade or other names:~~
 32 ~~4-methyl-2,5-dimethoxy-alpha-methylphenethylamine;~~
 33 ~~“DOM”; and “STP.”~~
 34 ~~(6) 3,4-methylenedioxy-amphetamine.~~
 35 ~~(7) 3,4,5-trimethoxy-amphetamine.~~
 36 ~~(8) Bufotenine—Some trade or other names:~~
 37 ~~3-(beta-dimethylaminoethyl)-5-hydroxyindole;~~
 38 ~~3-(2-dimethylaminoethyl)-5-indolol;~~
 39 ~~N,N-dimethylserotonin;~~
 40 ~~5-hydroxy-N,N-dimethyltryptamine; mappine.~~

- 1 ~~(9) Diethyltryptamine—Some trade or other names:~~
2 ~~N,N-Diethyltryptamine; DET.~~
3 ~~(10) Dimethyltryptamine—Some trade or other~~
4 ~~names: DMT.~~
5 ~~(11) Ibogaine—Some trade or other names:~~
6 ~~7-Ethyl-6,6beta,~~
7 ~~7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyri~~
8 ~~do [1',2':1,2]azepino [5,4-b]indole; Tabernantheiboga.~~
9 ~~(12) Lysergie acid diethylamide.~~
10 ~~(13) Marijuana.~~
11 ~~(14) Mescaline.~~
12 ~~(15) Peyote—Meaning all parts of the plant presently~~
13 ~~classified botanically as Lophophora williamsii Lemaire,~~
14 ~~whether growing or not, the seeds thereof, any extract~~
15 ~~from any part of such plant, and every compound,~~
16 ~~manufacture, salts, derivative, mixture, or preparation of~~
17 ~~such plant, its seeds or extracts (interprets 21 U.S.C. Sec.~~
18 ~~812(e), Schedule 1(e)(12)).~~
19 ~~(16) N-ethyl-3-piperidyl benzilate.~~
20 ~~(17) N-methyl-3-piperidyl benzilate.~~
21 ~~(18) Psilocybin.~~
22 ~~(19) Psilocyn.~~
23 ~~(20) Tetrahydrocannabinols. Synthetic equivalents of~~
24 ~~the substances contained in the plant, or in the resinous~~
25 ~~extractives of Cannabis, sp. and/or synthetic substances,~~
26 ~~derivatives, and their isomers with similar chemical~~
27 ~~structure and pharmacological activity such as the~~
28 ~~following: delta 1 cis or trans tetrahydrocannabinol, and~~
29 ~~their optical isomers; delta 6 cis or trans~~
30 ~~tetrahydrocannabinol, and their optical isomers; delta 3,4~~
31 ~~cis or trans tetrahydrocannabinol, and its optical isomers.~~
32 ~~(Since nomenclature of these substances is not~~
33 ~~internationally standardized, compounds of these~~
34 ~~structures, regardless of numerical designation of atomic~~
35 ~~positions covered).~~
36 ~~(21) Ethylamine analog of phenethylidine—Some~~
37 ~~trade or other names: N-ethyl-1-phenylecyclohexylamine;~~
38 ~~(1-phenylecyclohexyl)ethylamine,~~
39 ~~N-(1-phenylecyclohexyl)ethylamine, cyclohexamine,~~
40 ~~PCE.~~

~~(22) Pyrrolidine analog of phenacyclidine—Some trade or other names: 1-(1-phenylecyclohexyl) pyrrolidine, PCPy, PHP.~~

~~(23) Thiophene analog of phenacyclidine—Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phenacyclidine, TPCP, TCP.~~

~~(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:~~

~~(1) Flunitrazepam.~~

~~(2) Meclizolone.~~

~~(3) Methaqualone.~~

~~(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:~~

~~(1) Cocaine base.~~

~~(2) Fenethylline, including its salts.~~

~~(3) N-Ethylamphetamine, including its salts.~~

~~SEC. 2.~~

~~SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

~~Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act~~

1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

O

